

FTC FACTS for Consumers

NEED A LAWYER? JUDGE FOR YOURSELF

Going through a divorce? Launching a business? Hurt in a car accident? Writing a will? Facing a lawsuit? In any of these situations, you may consider hiring a lawyer to advise you or represent your interests. The Federal Trade Commission (FTC) offers the following advice to help you be smart when you choose — and use — legal representation.

KNOW WHO YOU'RE DEALING WITH

Many lawyers specialize in a particular area of the law. Be sure your attorney has relevant experience. An attorney who regularly drafts wills may not be the best choice to represent you in a courtroom if the subject is an auto accident. If family, friends or co-workers have hired a lawyer for a similar reason, ask them for recommendations. If not, check with your state and local bar associations. Some groups offer lawyer referral services for their members.

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DO YOUR RESEARCH

Try to talk with more than one lawyer before you choose the one to represent you. But find out if you will be charged for an initial meeting. Be prepared to describe your problem in a brief, clear summary. Ask the various lawyers about their experience, their fees, what your options might be, your chances of success, who will do the work, and when the problem might be resolved.

KNOW THE REAL DEAL

Once you decide to hire a lawyer, be sure you understand what you've both agreed to. How often will the lawyer update you? What information will you be required to provide? Do you understand all your options? What will the total cost be? If you're not clear on exactly what the lawyer is doing, ask for clarification. Although your chances of success can't be guaranteed, discuss approaches to your case. You should be comfortable with your lawyer's approach to your case. Be up front with your lawyer on all the facts and circumstances surrounding your situation. You may want to get the agreement with your lawyer in writing.

FEES AND COSTS

Before any work begins, ask what the cost will be for the lawyer's services and whether you will be responsible for other fees and charges. State ethics rules require lawyers to charge a reasonable fee. The American Bar Association advises that lawyers explain their fees, preferably in writing, within a reasonable time after beginning to represent you. And some state bars require that lawyers put their fees in writing before they take a case. Your lawyer may charge you extra for copying documents, courier services, court filing fees, or research services. Be sure you understand what you will be charged for and how much.

PAYMENT ARRANGEMENTS

Remember the most expensive lawyer is not necessarily the best one for you. Nor is a "bargain" rate always a great deal. Look for the best balance of experience and cost. You may want to ask your lawyer if a junior lawyer or paralegal can perform some of the work to lower your costs. You also may want to ask if there are tasks you could perform yourself to save time and money. For example, you might be able to copy, pick up or deliver certain documents. A lawyer may charge you a flat fee for a particular service or offer alternative methods of payment. Each has benefits and risks.

Contingency fees. A contingent fee arrangement means that your lawyer gets a percentage of whatever money you receive as resolution of your case. If you receive no money, then your lawyer collects no fees. However, you may owe charges for court fees, copying, and hiring expert witnesses. If you have very little money to pay hourly fees, it may be appropriate to negotiate a contingency fee with your lawyer. But before agreeing to a contingent fee, consider that:

- The size of a contingency fee, usually a percentage of any money you receive to resolve the case, is always negotiable. Sometimes you can negotiate a sliding scale fee (for example, 30 percent of any recovery up to \$10,000; 20 percent of any recovery up to \$50,000, etc.). Remember that there's no particular percentage of a consumer's recovery that constitutes a "standard" or "official" fee.
- The size of the contingency fee should reflect the amount of work that will be required by the attorney. Some cases are straightforward; others can be novel or uncertain. You may want to ask whether the case is likely to settle quickly and whether

government agencies will gather significant amounts of evidence. A fee arrangement sometimes can be negotiated with a lower percentage for a quick settlement and a higher percentage if it goes to trial. Be sure you know exactly what is covered in your agreement. Your state also may have rules about maximum contingency fees; check with your state's bar association.

Flat fee. You pay the lawyer a set dollar amount for a particular service, like writing a will. If the matter is simple and straightforward, say, an uncontested divorce or a simple bankruptcy filing, many lawyers often charge a flat fee. Be sure to find out exactly what the flat fee includes.

Hourly rates. The lawyer charges a set fee per hour. Your final cost will depend on how long it takes to complete your work. Hourly rates vary according to a lawyer's expertise and experience. An experienced lawyer may charge a higher hourly rate but may complete the work more quickly. Because the hours worked on your case can add up quickly, you should ask for a written estimate of the number of hours necessary to complete your case to get an idea of what your final bill might amount to.

Retainer. Your lawyer may ask you to pay a fee up front. A lawyer can use this fee — often called a retainer — as a down payment on expenses and fees. It is important to review your account from time to time to understand how your money is being spent.

Public Legal Services. Depending on your financial situation, you may qualify for free or low cost legal services through special organizations. For example, you may be eligible for free representation in landlord-tenant or divorce cases. Look in your local telephone directory for legal services organizations or legal clinics associated with accredited law schools.

Pre-paid legal plans. Some organizations offer pre-paid legal plans that work like an insurance policy. In exchange for a monthly fee, you receive certain legal services as you need them. However, the fees charged and the services covered vary with each state's law and the particular plan. Check out any plan carefully to be sure you know what's covered and whether it makes sense for your situation.

KEEP GOOD RECORDS

Chances are your lawyer will ask you for documents that relate to your case. Keep copies if you give your lawyer the originals. Ask for copies of all other important documents. When you get a bill from your lawyer, review it carefully and ask about any charges that are unclear to you.

CLASS ACTIONS

In a class action, a court decides that a group of people — a class — may have been harmed in a similar way. You may receive notices asking whether you want to be part of the lawsuit. Read the notice carefully. If you take no action, you typically become a member of the class by default. If that's the case, you are bound by the outcome of the class action lawsuit; you can't bring your own case; and you won't have direct control of the lawsuit. But you could raise some objections about any settlement or the amount of the attorney's fees. Should you choose not to become a member of the class, you preserve the right to bring your own case and control it directly. But you'll have to hire — and pay for — your own lawyer and you won't share in any benefits that may be won in the class action.

SERVICE

If you're not happy with the work your lawyer has performed on your behalf, you may fire him or her at any time. In some kinds of cases, you may need the permission of a judge to do this.

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Weigh the costs and benefits of starting over with a new lawyer. Your case may be delayed and could cost you more. Lawyers are subject to state ethics rules and are required to charge reasonable fees; if you think your lawyer didn't treat you fairly, represent you adequately, or charged you too much, communicate with him and try to work out some resolution. If trying to resolve the matter directly with your lawyer is unsuccessful, consider filing a complaint with your state or local bar association. In some states, arbitration is available to mediate such disputes. Remember that if you are satisfied with the work your lawyer has done for you, communicate that message, too.

The FTC works for the consumer to prevent fraudulent, deceptive and unfair business practices in the marketplace and to provide information to help consumers spot, stop and avoid them. To file a complaint or to get free information on consumer issues, visit www.ftc.gov or call toll-free, 1-877-FTC-HELP (1-877-382-4357). The FTC enters Internet, telemarketing, identity theft and other fraud-related complaints into Consumer Sentinel, a secure, online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.



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